

**ENTERED**

September 25, 2018

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

ESTEBAN CRUZ,

Plaintiff,

VS.

STATE FARM LLOYDS,

Defendant.

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CIVIL ACTION NO. 2:18-CV-203

**ORDER ABATING CASE**

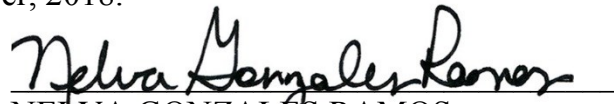
Before the Court is Defendant's Motion to Abate (D.E. 8) seeking relief under Texas Insurance Code § 542A.003 because Plaintiff's notice letter was conclusory and formulaic, lacking factual support. Plaintiff did not file a response to the motion and the time for doing so has expired. Local Rule 7.3. Failure to respond may be taken as a representation of no opposition to the relief sought. Local Rule 7.4. Nonetheless, the Court reviews the motion on its merits.

After due consideration, the Court finds that Plaintiff's notice letter fails to comply with the statute's requirement for factual detail regarding the acts or omissions giving rise to the claim. The notice letter also fails to state the attorney's fees appropriately. While the letter need not set out the details of the number of hours worked, the actual work performed, or hourly rate applied, it must state that the amount is calculated according to the required formula: by multiplying the number of hours actually worked by the claimant's attorney, as of the date the notice is given and as reflected in

contemporaneously kept time records, by an hourly rate that is customary for similar legal services.

The Court GRANTS the motion (D.E. 8) and ORDERS this action abated for sixty (60) days after Plaintiff gives Defendant proper notice under chapter 542A. Plaintiff is ORDERED to file with the Court an advisory stating the date that such notice was given so that this Court may manage its docket accordingly. Failure to give revised notice to Defendant and file an advisory with the Court on or before October 3, 2018, may be taken as a failure to prosecute this action.

ORDERED this 25th day of September, 2018.

  
NELVA GONZALES RAMOS  
UNITED STATES DISTRICT JUDGE